

Litigation History and Settlement

Class action litigation was filed against the PACT Board in 2010 on the allegation that PACT was obligated to provide payment of full tuition and fees on behalf of beneficiaries -- regardless of any shortfall in the PACT Trust Fund resulting from the unprecedented market downturns and/or tuition increases. The litigation was styled *Lisa Nix Green v. Kay Ivey, et al.* and docketed in the Montgomery County Circuit Court as case number CV-2010-900013.

Through a mediated settlement, an agreement was reached in April 2011 whereby future PACT benefits would be capped at the level of tuition and fees that had been paid for the Fall 2010 term (although there would be discretion to increase payments in the future if the status of the PACT Trust Fund improved). Under the settlement, PACT contract holders and beneficiaries would be responsible for paying any tuition and fees in excess of the Fall 2010 rates. After a lengthy review process, the proposal received approval from the Montgomery County Circuit Court in July 2011 but was appealed to the Alabama Supreme Court by various contract holders.

The Alabama Supreme Court initially vacated the settlement in March 2012 due to its interpretation that Ala. Code § 16-33C-19 prohibited any modification of benefit levels. Following release of that decision, the Legislature repealed § 16-33C-19 and enacted a new provision specifically authorizing the PACT Board to enter into a resolution with PACT Contract holders.

The Alabama Supreme Court thus was asked to reconsider its decision, and in July 2012 the case was remanded to the Montgomery County Circuit Court for a determination as to whether the repeal of § 16-33C-19 was constitutional. The trial court upheld the constitutionality of the repeal, and the Alabama Supreme Court affirmed the class action settlement by Order dated April 19, 2013.

Beginning with the Summer 2013 term, PACT has paid benefits at the Fall 2010 levels as contemplated by the settlement.